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Intellectual Property Alert: Notes from the USPTO and Patent Public Advisory Committee Quarterly Meeting Part 3 of 8: USPTO Budget Update

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CLIENT ALERT | 6.26.2020

The United States Patent and Trademark Office (the Office) and the Patent Public Advisory Committee (PPAC) recently held their Patent Public Advisory Committee Quarterly Meeting to review policies, goals, performance, budget, and user fees. Topics addressed included 1) Update on Patents business units; 2) **Finance/Budget**; 3) **IT update**; 4) Artificial Intelligence; 5) International update; 6) Pendency and Quality; and 7) **PTAB update**.

This is the third of eight alerts Vorys will be publishing to summarize topics discussed at the Quarterly Meeting. This note summarizes comments made by Chief Financial Officer Jay Hoffman during the meeting regarding the Office budget update, and also summarizes statements by USPTO Director Andrei Iancu to Congress in a **recent letter** addressing Office budget concerns in the wake of the COVID-19 pandemic.

Comments by Chief Financial Officer Jay Hoffman

Meeting attendees were reminded that the Office does not rely on tax payer funds for operation, but is instead entirely funded by fees collected from patent applicants and patent owners. As of May 2020, the pandemic and economic downturn had not yet had a significant impact on operations at the Office, yet the Office has been closely monitoring how a projected decline in revenue due to fewer filings could affect its budget. While there has not been much of a drop in filings so far, the Office is bracing for a drop in the coming months as the long-term impact of the economic downturn becomes clearer.

Hoffman indicated that the Office could see a 5% to 10% reduction in patent revenues over the next 12 months, and further noted that the Office has a reserve fund of \$361 million that may need to be tapped to cover a budget shortfall. To date, the Office has made a few adjustments to its spending, including deferring some planned hiring of Examiners until later in the summer.

The CARES Act, signed into law on March 27, 2020, allowed the Office to defer various deadlines and fee payments, which could potentially reduce fee collections as applicants postpone filing until later. Hoffman mentioned that if every applicant for whom relief was available took advantage, it would cost the Office about \$19.5 million a week, but the actual numbers were not anywhere close to that figure as the impact has been less than 3% of the Office's overall revenue. However, that could change as more people become aware of and take advantage of the relief.

USPTO Director Andrei Iancu Letter to Congress

Director Andrei Iancu submitted [a letter](#) on June 10, 2020 to Congress describing how COVID-19 has affected the Office's budget, and indicated that more funding may be needed should its internal reserves be depleted as a result of the economic strain. Trademark and patent revenues from application filings for fiscal year 2020 are lower than anticipated, which Director Iancu attributed to the state of the U.S. economy amid the current pandemic.

The CARES Act gave the Office the power to extend certain fee deadlines as relief to intellectual property owners. This relief has been funded by the Office's reserves, which will likely be stable enough to cover the loss of revenue for this year, but the "troubling" drop in filings could lead to more losses in 2021 and 2022. Consequently, additional funds may be needed to supplement the USPTO's internal reserves and support operations.

Director Iancu noted that the Office recently cut spending by foregoing certain updates to its trademark IT systems, which he said may have to be postponed until next year. The Office has also reduced hiring, which may affect pending applications.